

**REMARKS****Summary of the Office Action**

Claims 3-9, 11 and 13 are withdrawn from consideration.

A new title is required because the title is allegedly “not descriptive.”

The drawings stand objected to under 37 C.F.R. § 1.83(a).

Claim 16 stands rejected under 35 U.S.C. § 112, first paragraph, as allegedly “failing to comply with the enablement requirement.”

Claims 1, 2, 10, 12 and 14 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 10/4 and 16/14 (with respect to the product claim 12) of U.S. Patent No. 7,109,462 in view of Maeda et al. and Abe et al. Examiner Psitos makes no indication of specifically what document number or document type “Maeda et al.” or “Abe et al.” are intended to refer to. Applicants are proceeding with the understanding that the Examiner intended to refer to U.S. Patent No. 5,144,601 with regard to Maeda et al. (hereinafter “Maeda”) and U.S. Patent No. 6,801,240 with regard to Abe et al. (hereinafter “Abe”). To the extent that Applicants’ understandings are incorrect in any respect, the Examiner is requested to provide clarification in the next Office Communication.

Claims 15 and 16 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 10/4 of U.S. Patent No. 7,109,462 in view of Maeda and Abe as relied upon in paragraph 2 and further considered with a) themselves, b) Masui et al. and c) Yamanoi et al.. Examiner Psitos makes no indication of specifically what document number or document type “Masui et al.” or “Yamanoi et al.” are intended to refer to. Applicants are proceeding with the understanding that the Examiner intended to refer to U.S. Patent No.

6,600,712 with regard to Masui et al. (hereinafter "Masui") and U.S. Patent No. 7,006,423 with regard to Yamanoi et al. (hereinafter "Yamanoi"). To the extent that Applicants' understandings are incorrect in any respect, the Examiner is requested to provide clarification in the next Office Communication.

Claims 1, 2, 10, 12 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yokoi further considered with Maeda and Abe. Examiner Psitos makes no indication of specifically what document number or document type "Yokoi" is intended to refer to.

Applicants are proceeding with the understanding that the Examiner intended to refer to U.S. Patent No. 6,664,526 with regard to Yokoi (hereinafter "Yokoi"). To the extent that Applicants' understandings are incorrect in any respect, the Examiner is requested to provide clarification in the next Office Communication.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the art as applied to "claims 1, 2, 10, 12, and above, and further in view of" Masui.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the art as applied to "claims 1, 2, 10, 12, and above, and further in view of" Yamanoi.

#### **Summary of the Response to the Office Action**

Applicants have amended claims 15 and 17 to differently describe embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. Claim 16 has been canceled without prejudice or disclaimer. Accordingly, claims 1-15 and 17 are currently pending with claims 1, 2, 10, 12, 14, 15 and 17 currently under consideration.

**Requirement for a New Title**

A new title is required because the title is allegedly “not descriptive.” In response, Applicants have replaced the previous title with a new amended title. Accordingly, withdrawal of the requirement for a new title is respectfully requested.

**Drawing Objections**

The drawings stand objected to under 37 C.F.R. § 1.83(a). The Examiner asserts that the “limitations of claims 15-16 and 17 must be shown or the feature(s) canceled from the claim(s).” In response, Applicants have canceled claim 16 and amended claims 15 and 17, rendering these objections moot. With regard to newly-amended claim 17, Applicants respectfully submit that “a controller” corresponds, for example, to “controller 180” illustrated in Fig. 1, for example, of the drawing figures. Accordingly, Applicants respectfully request that the drawing objections be withdrawn.

**Rejection under 35 U.S.C. § 112, first paragraph**

Claim 16 stands rejected under 35 U.S.C. § 112, first paragraph, as allegedly “failing to comply with the enablement requirement.” Claim 16 has been canceled rendering this rejection moot. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 112, first paragraph be withdrawn.

**Double Patenting Rejection**

Claims 1, 2, 10, 12 and 14 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 10/4 and 16/14 (with respect to the product claim 12) of U.S. Patent No. 7,109,462 in view of Maeda and Abe. Claims 15 and 16 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 10/4 of U.S. Patent No. 7,109,462 in view of Maeda and Abe as relied upon in paragraph 2 and further considered with a) themselves, b) Masui and c) Yamanoi.

Applicants respectfully submit that independent claim 1 of the instant application is directed to an advantageous combination of features of an optical pickup apparatus that includes features specifically describing that while a multi-pulse write beam is being utilized at the time of forming a mark of data, an erase beam is utilized at the time of forming a space of the data. With regard to the erase beam described in independent claim 1 of the instant application, while a single-pulse erase beam is utilized during a predetermined period, a multi-pulse erase beam is utilized during a period other than the predetermined period. Also according to independent claim 1 of the instant application, an acquisition device acquires an intensity level of the detected beam as a sampling value for the predetermined period. During the predetermined period, claim 1 describes that a single-pulse erase beam is utilized.

Applicants respectfully submit that the applied Tateishi reference illustrates switching between a multi-pulse beam for recording and a single-pulse beam for recording. However, Applicants respectfully submit that Tateishi does not teach switching between a multi-pulse beam for erasing a single-pulse beam for erasing in the manner described in independent claim 1 of the instant application.

Also, Applicants respectfully submit that Maeda only discloses multi-pulse erasing. Further, Applicants respectfully submit that Abe only discloses single-pulse erasing. Applicants respectfully submit that none of these applied references discloses switching between a multi-pulse beam for erasing and a single-pulse beam for erasing in the manner described in independent claim 1 of the instant application.

On the other hand, Applicants respectfully submit that a characterizing feature of the combination of independent claim 1 of the instant application is that an acquisition device acquires an intensity level of the detected beam as a sampling value for the predetermined period during which a single-pulse erase beam is utilized. Applicants respectfully submit that at least this characterizing feature of the combination of independent claim 1 of the instant application is not disclosed, nor even suggested, in any of the applied references to Tateishi, Maeda, and Abe. As a result, Applicants respectfully submit that independent claim 1 of the instant application is not obvious over the applied combination of Tateishi in view of Maeda, and Abe.

Applicants respectfully submit that independent claims 10 and 12 include similar features as discussed above with regard to independent claim 1 of the instant application. Accordingly, similar arguments as set forth above with regard to independent claim 1 of the instant application also apply to independent claims 10 and 12 of the instant application. Applicants note further that dependent claims 2, 14, 15 and 17 are not obvious at least for the same reasons as why their respective independent claim 1 is not obvious, as set forth previously. Also, the additionally applied reference to Masui with regard to dependent claim 15 does not cure the deficiencies of the other applied references, as discussed previously. Finally, the rejections with regard to

dependent claim 16 have been rendered moot by the cancellation of claim 16. Accordingly, Applicants request that the double patenting rejections be withdrawn.

**Rejections under 35 U.S.C. § 103(a)**

Claims 1, 2, 10, 12 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yokoi further considered with Maeda and Abe. Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the art as applied to “claims 1, 2, 10, 12, and above, and further in view of” Masui. Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the art as applied to “claims 1, 2, 10, 12, and above, and further in view of” Yamanoi. These rejections are respectfully traversed for at least the following reasons.

Applicants respectfully submit that independent claim 1 of the instant application is directed to an advantageous combination of features of an optical pickup apparatus that includes features specifically describing that while a multi-pulse write beam is being utilized at the time of forming a mark of data, an erase beam is utilized at the time of forming a space of the data. With regard to the erase beam described in independent claim 1 of the instant application, while a single-pulse erase beam is utilized during a predetermined period, a multi-pulse erase beam is utilized during a period other than the predetermined period. Also according to independent claim 1 of the instant application, an acquisition device acquires an intensity level of the detected beam as a sampling value for the predetermined period. During the predetermined period, claim 1 describes that a single-pulse erase beam is utilized.

Applicants respectfully submit that the applied Yokoi reference illustrates switching between a multi-pulse beam and a single-pulse beam at the time of forming a mark. However,

Applicants respectfully submit that Yokoi does not teach switching between a multi-pulse beam and a single-pulse beam at the time of forming a space in the manner described in independent claim 1 of the instant application.

Also, as previously discussed with regard to the double patenting rejections, Applicants respectfully submit that Maeda only discloses multi-pulse erasing. Further, Applicants respectfully submit that Abe only discloses single-pulse erasing. Applicants respectfully submit that none of these applied references discloses switching between a multi-pulse beam for erasing and a single-pulse beam for erasing in the manner described in independent claim 1 of the instant application.

On the other hand, Applicants respectfully submit that a characterizing feature of the combination of independent claim 1 of the instant application is that an acquisition device acquires an intensity level of the detected beam as a sampling value for the predetermined period during which a single-pulse erase beam is utilized. Applicants respectfully submit that at least this characterizing feature of the combination of independent claim 1 of the instant application is not disclosed, nor even suggested, in any of the applied references to Yokoi, Maeda, and Abe. As a result, Applicants respectfully submit that independent claim 1 of the instant application is not obvious over the applied combination of Yokoi in view of Maeda, and Abe.

Applicants respectfully submit that independent claims 10 and 12 include similar features as discussed above with regard to independent claim 1 of the instant application. Accordingly, similar arguments as set forth above with regard to independent claim 1 of the instant application also apply to independent claims 10 and 12 of the instant application. Applicants note further that dependent claims 2, 14, 15 and 17 are not obvious at least for the same reasons as why their

respective independent claim 1 is not obvious, as set forth previously. Also, the additionally applied reference to Masui with regard to dependent claim 15 does not cure the deficiencies of the other applied references, as discussed previously. Finally, the rejections with regard to dependent claim 16 have been rendered moot by the cancellation of claim 16.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. § 103(a) should be withdrawn for at least the foregoing reasons.

### **CONCLUSION**

In view of the foregoing, Applicants submit that the pending claims are in condition for allowance, and respectfully request withdrawal of all outstanding rejections and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including



any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.


This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**DRINKER BIDDLE & REATH LLP**

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By:



Paul A. Fournier

Reg. No. 41,023

**Customer No. 055694**

**DRINKER BIDDLE & REATH LLP**

1500 K Street, N.W., Suite 1100

Washington, DC 20005-1209

Tel.: (202) 842-8800

Fax: (202) 842-8465